

Missouri Citizens Commission on Compensation for Elected Officials November, 30, 1996 Report

The Missouri Citizens Commission on Compensation for Elected Officials for the 1996-98 session convened on Thursday, February 29, 1996 in Jefferson City. The original appointments to the Commission were comprised of the following listed individuals. The list depicts their domicile as well as the appointing authority.

Charles T. Banks	Kansas City	Sec. of State -Random 5th District
Linda Beckmeyer	Hartsburg	Governor
Stephen Burch	Rolla	Governor
Conny K. Dover	Kirksville	Governor
Opal A. Evilsizer	Boxworth	Sec. of State -Random 6th District
Cheryl Fanning	Lamar	Governor
Gary L. Hahn	Mexico	Sec. of State -Random 9th District
Susanne B. Hoffmann	St. Louis	Governor
M. Theresa Hupp	Kansas City	Governor
Dennis W. Jones	Shell Knob	Sec. of State -Random 7th District
Robert Kortkamp	Chesterfield	Governor
Jerry L. Leath	Chesterfield	Governor
Sandra L. Mallory	St. Louis	Sec. of State -Random 3rd District
Timothy D. O'Leary	Kansas City	Supreme Court en banc
Raymond H. Portwood	Puxico	Sec. of State -Random 8th District
Maria-Alma Rainey-Copeland	Florissant	Governor
Ann Ross	St. Louis	Governor
Daniel Sawyer	Kansas City	Governor
Donald S. Schwartz	St. Louis	Sec. of State -Random 2nd District
Joyce L. Shelby	Osceola	Sec. of State -Random 4th District
Kenneth W. Summers	St. Louis	Sec. of State -Random 1st District
Barbara Westhues	Moberly	Governor

During the initial February 29, 1996 meeting, Robert O. Kortkamp was nominated and selected as Chairperson for the Commission by majority vote. Subsequent to his election, the Commission was informed by John Boehm, Deputy Commissioner for Administration, State of Missouri, that a consulting staff could be provided to the Commission to assist them in their task by providing statistics and other vital information relative to compensation. After the Commission reviewed competing proposals and interviewed prospective consultants, Workscience Corporation of Richmond, Virginia was selected to aid the commission in its endeavor. During the second meeting of the Commission, the Honorable Timothy D. O'Leary was selected as Vice-Chairman by majority vote. After several months of service to the Commission, Raymond H. Portwood resigned for personal reasons and was later replaced by Maxine M. Duckett, who also represented the 8th District. In early November, 1996 Mr. Charles T. Banks resigned. As of the date of this writing, he has not been replaced.

Statistical information was provided to the Commission throughout its deliberations from a variety of informed sources in a wide array of topical areas. These included data regarding local, regional and national salaries, especially in the other forty-nine (49) states as well as comparisons to states similar in demographics such as geographic size, population, proximity (the eight contiguous states to Missouri), etc.

The following additional "open to the public" meetings were held in Jefferson City:

March 14, 1996: Representatives of Workscience Corporation made a presentation on compensation topics and statistical analysis. Elements of the judiciary and the Missouri Bar Association made general presentations to the

Commission. All judiciary levels under study were represented. These include the Associate Circuit, Circuit and Appellate levels as well as the Supreme Court.

April 11, 1996: Past and present members of the Senate and House made general presentations as well as interested parties providing overviews of the duties and responsibilities of the Attorney General. Mark Ward, Deputy Commissioner for Budget and Planning, Office of Administration provided an overview of fiscal considerations.

May 9, 1996: Three sub-committees were created representing focus groups on the judiciary, elected officials and the legislature. Commission members selected one of the three sub-committees on which to serve and then elected chairpersons for the sub-committees. Mr. Timothy O'Leary was elected to chair the judiciary committee, Ms. Theresa Hupp the elected officials committee, and Ms. Ann Ross, the legislative committee.

May 23, 1996: Sub-committees continued to meet and deliberate. Additional information was provided by the judiciary. A presentation was also made on retirement system differences by Mr. Gary Findlay, Executive Director of the Missouri State Employees Retirement System.

Although only four were required by law, in order to provide Missouri citizens the opportunity to voice their opinion in a convenient public forum, five hearings were advertised and held at the following locations and dates.

St. Louis	August 26, 1996
Springfield	September 9, 1996
Kansas City	October 7, 1996
Cape Girardeau	October 21, 1996
Kirksville	November 6, 1996

Testimony was heard at each location.

On November 13, 1996 the Commission met in Jefferson City and deliberated once again in the form of subcommittees. Initial sub-committee recommendations were prepared and presented to the entire Commission. After discussion and questions after each sub-committee presentation, the Commission voted and approved the attached schedule of compensation (Appendix A) in accordance with its charge to file its initial schedule of compensation with the Secretary of State and the Revisor of Statutes. This report and its Appendix comprise the Commissions findings.

Commission rationale for structural changes in compensation Judges

One of the tasks of the Commission was to set the salaries for each level of the judiciary. We were mindful of the various considerations that should inform our decision, including the fact that adjustments to judicial salaries have an impact on the taxpayers, who endure the real cost of government. Furthermore, the Commission was obligated to consider the sound administration of justice across the State of Missouri as well as reasonable and fair compensation to those who actually perform the work. In setting salaries, to the extent feasible, we have endeavored to match the nature of the job with its importance to the citizens of the state. This does not mean that judicial salaries should be set at equivalent levels with those salaries available to similarly skilled individuals in the private sector, for we believe that service as a judge is a public calling and a great honor. Sacrifice in compensation is normally assumed and expected when one enters public service. Accordingly, the Commission has striven to achieve a middle ground that is evenhanded in its treatment of judicial officers while best serving the requirements of and maximizing the benefits to the Missouri citizenry.

In arriving at this middle ground, the Commission did not lose sight of the fact that the judicial system competes in the marketplace for the talent that it needs to provide quality personnel and that a less than fair salary will mean that the citizens are apt to suffer. The Commission simply was unwilling to arrive at a salary recommendation which would compromise the quality of the judiciary. The people of Missouri must have a

judicial system of which they can be proud. They must also be secure in the knowledge that their judicial system will administer justice in a manner that is considered to be fair and just. Thus, even though the Commission recognizes that it could increase salaries to less than a fair amount and still attract personnel, the persons so attracted would, in the main, be at best mediocre; leading to a judiciary composed of persons whose decisions respecting life, liberty and property would not inspire confidence. Furthermore, we would risk losing our present quality personnel at an ever increasing rate.

None of us want a third-rate judiciary. We require people with the ability to know the law, analyze the law and apply it well; as well as individuals who are sensitive to the fact that the just application of the rule of law is the bulwark of democracy. Such persons set the tone for a model of excellence among the practicing bar. This conversely results in assuring that lawyers practicing before them perform at higher levels and thus, the entire system of justice harvests the benefits. Moreover, judges should possess compassion, understanding and the common sense necessary to provide a sound judicial decision. To recruit and retain such persons requires fair compensation.

To assist with our work, we have been fortunate to receive professional staff assistance. We, thereby, received information and data about the salaries of judges, both state and federal, throughout the country, including those of neighboring states. Furthermore, we have learned of the salaries of others who may be perceived by many to have achieved stature in the legal community, and thus worthy of comparison, such as law deans, law professors, partners in middle to large law firms, corporate lawyers', and experienced civil service lawyers. Additionally, and importantly, we received the assistance of the public through their testimony in the public hearings we held throughout the State of Missouri. These were held in five separate locations and testimony came from a broad cross-section of the community, including academicians, judges, lawyers, corporate attorneys, chief operating officers of corporations, and others. We heard their testimony, including their observations and recommendations. We were told of instances where judges have resigned in order to take employment that, although not equal to the prestige normally associated with being a judge, provided a salary necessary to support their families, pay college tuition, etc. The theme became rather clear; lawyers do not aspire to or become judges for the monetary gain. They become judges for other intrinsic reasons, such as interest in the position and the prestige, the honor, and the service to the community that it offers. However, money will keep lawyers from becoming judges if it prevents them from supporting their families', sending their children to college and the like. This, of course, is the way it should be. We don't want lawyers taking the job for the money, because if they do, they are not of the caliber that we want nor expect. But, we don't want to lose dedicated people because they can't afford to accept the position. We learned, also, that there is a great deal of disparity between what successful trial attorneys make in the practice of law and what we pay our judges. As we noted, some of this disparity is understandable because the job is a public service, but we learned that the degree of disparity is in reality, a major consideration for a person making a decision to become a judge. Thus, in order to attract the persons we want and need, we should lessen the disparity to the point where dedicated people will be able to make the choice to become a judge. Consequently, based on this data, and within the considerations outlined above, the Commission believes that it is appropriate to recommend an increase in compensation for the members of the judiciary.

A considerable amount of testimony was heard regarding the type of work assignments, relative workloads, and the pay of judges. Additionally, pay comparisons were made with private legal firms and others associated with the Missouri Bar. Information was received from additional entities concerned with similar matters. These

were often in the form of recommendations, such as that proposed by the Advisory Commission on the Organization of the Judicial Department, dated December 15, 1995. Recommendation 415 stated that "The salary disparity that exists between Associate Circuit Judges and Circuit Judges should be substantially reduced." The Citizens Commission on Compensation for Elected Officials agrees. and we so recommend. However, we conclude that the tradition of having some difference in compensation among the various levels of the judiciary should be maintained.

The Commission recognizes the service that Associate Circuit Judges provide in keeping current both the Associate Circuit and Circuit Court dockets. The constitutional requirement of one Associate Circuit Judge per county may have resulted in a disproportionate number of Associate Circuit Judges for the amount of traditional

Associate Circuit caseload, resulting in Associate Circuit Judges using their down time efficiently by assisting with circuit-level cases. The proposed decrease in the disparity between salaries for Circuit and Associate Circuit Judges is in recognition of the service Associate Circuit Judges provide with circuit-level cases and in accepting transfers to other jurisdictions.

The Commission further recognizes that in counties with multiple Associate Circuit Judges, the number of judgeships designated as Associate or Circuit may have been determined by the General Assembly based on criteria that may not be reflected in current workload. The General Assembly has responsibility for establishing the number of judges in each of these classifications, not the Citizens Commission on Compensation of Elected Officials, nevertheless, those numbers are of significance to this commission in considering compensation structure. We recommend that the General Assembly address the question of the appropriateness of the number of Associate Circuit Court Judges and the number of Circuit Court Judges in the circuits where there is a problem, and adjust the number of Associate Circuit Court Judges or Circuit Court Judges as they deem appropriate.

In general, it is the opinion of the Commission that the salaries of judges should be established at fixed dollar intervals between the various levels of judges rather than by percentages. Over time, structural hierarchical relationships could be maintained by whole dollar increments rather than having disparities exacerbated between the higher and lowest levels by across-the-board percentage increases. The initial schedule calls for the base Supreme Court Judge salary to be \$120,000 with a difference between the Supreme Court and the Court of Appeals set at \$8,000. Similarly, the difference between the Court of Appeals and the Circuit Court Judges should be \$7,000 with a \$6,000 difference between the Circuit Court Judges and the Associate Circuit Court Judges. A differential of \$2,500 should also be paid to the Chief Justice of the Supreme Court.

Section 476.380, RSMO establishes a \$35 per diem for judges attending the Annual Judicial Conference. Section 476.330 makes attendance at the conference mandatory for all judges. The Commission has listed a new per diem standard on the attached schedule which ties the amount of per diem paid to judges to the standard

acceptable Federal per diem rate. The rationale for doing so involves consistency in state government between the recommended legislative per diem (tied to the Federal structure) and the judiciary. It is noted that per diem rates fluctuate each year based on market conditions in the cities in which the expenses occur. While the legislature meets primarily in Jefferson City, the city hosting the judicial conference may differ from year to year. It is the intent of the Commission to compensate on the basis of Federal per diem, which will parallel costs in a given area where the expenses are actually incurred. This increase in per diem should be applied in lieu of Section 476.380, RSMO.

Elected Officials

The impact on taxpayers of any adjustment in compensation for elected officials was strongly considered. Based on comments heard at our Commission and statewide meetings, and comments made by interested taxpayers, it was determined that we should be responsible and conservative with taxpayer's money. Salaries of Missouri's statewide officials were compared with similarly sized and neighboring states. Our conclusion is that elected official salaries are generally in line with similar states. In addition, the Commission is impressed with the quality of office holders in recent years and does not feel that the salaries have precluded qualified candidates from running for statewide offices. However, the Commission has concluded that an adjustment should be made in the salary of the Lieutenant Governor, given the increase in duties assigned to this office in 1992, the fact that it is now a full-time office, and the amount paid in comparison with other positions in the state. Accordingly, the Commission recommends the salaries for elected officials found in Appendix A.

The figures provided in Appendix A are our recommendation for base salaries. We recognize that the legislature, in conjunction with the Governor, can make annual adjustments to all statewide positions pursuant to RSMO. 105-005. Last year the salary adjustment consisted of a structure adjustment and a market progression increase. A structure adjustment is essentially a cost-of-living increase. Market progression increases are generally bestowed to move salaries closer to actual salaries paid in the job market when existing salaries are not competitive. Market progression increases were provided to state employees for the first time in over five years

on July 1, 1996 in an attempt to provide salaries that are a closer match to those paid in private industry and to other Missouri public jurisdictions. The most recent statistics available ranked Missouri forty- seven (47) out of fifty (50) states in a rank ordering for average salaries paid to state government workers.

We feel that a structure adjustment is appropriate for these statewide elected officials, but that our analysis (based on a review of similar states) has accounted for the market progression increase. Therefore, given no substantial change in comparative market conditions, we recommend that these positions receive only a structure (cost-of- living) adjustment for FY 98 and FY 99.

General Assembly

The Commission recognizes the fact that the duties of a legislator are difficult and time consuming and far outweigh the length of service generally associated with being in session. A commitment must be made by each legislator to address constituent's needs at all hours of the day and over the course of an entire year. We also recognize that these duties vary considerably amongst legislators with periodic peaks and valleys in this time commitment. It is the Commission's intent to provide a salary level that allows a citizens legislature and not a full-time professional legislature. We value community closeness and real-world experience. Thus, salary levels are set with part-time work in mind, with the knowledge that other business or vocational time requirements must also be met by individuals working within the legislature.

Of note is the Commission's intent to provide salary and expense or per diem payments at a level to allow independence from special interest groups. We also desire to reduce paperwork and minimize processing costs associated with vouchered expenses. After a review of historical documentation it became evident that the \$35.00 per day for food, lodging and miscellaneous expenses is grossly inadequate. The notion of a statutorially fixed reimbursement amount that does not take market conditions into account (actual costs) is archaic at best and certainly may be deemed unfair by those who attempt to live within its means. The Commission desires to eliminate the necessity to tap family or external resources for secondary living expenses. We therefore recommend that per diem payments hereafter be tied to the Federal level established for Jefferson City, on an annual basis and that reimbursement for mileage should be tied to reimbursement rates commensurate with all other state employees. Indexing per diem and all other expenses should allow for keeping pace with inflation as well as establishing a clear-cut sense of fairness and the expectation of independence from special interests.

The Commission recognizes that there are increased workloads associated with seven traditional leadership positions in the legislature (Speaker of the House, President Pro Tem of the Senate, Speaker Pro Tem of the House, Majority Floor Leader of the House, Majority Floor Leader of the Senate, Minority Floor Leader the House, Minority Floor Leader of the Senate, and two additional positions; the Senate Appropriations Chair and the House Budget Chair. We have provided pay differentials for positions that appear to warrant pay adjustments at this time in Appendix A. We have decided not to consider any salary differential between Senators and Representatives at this time and anticipate addressing this issue in the 1998 report.

Two base increases have been provided for legislators, one for FY98 and the other for FY99. The Commission's intent is to phase in a salary increase to a level that will allow for more financial independence from special interest groups. We also seek to provide the highest quality of individuals to represent Missouri citizens in its legislature.

Appendix A

Compensation Schedule

Judges

	FY 98		FY99 (1)
	Base	Differential	
Chief Justice, Supreme Court	\$120.000	\$2,500	

Supreme Court	\$120,000	
Court of Appeals Judge	\$112,000	
Circuit Judges	\$105,000	
Associate Circuit Judges	\$ 99,000	

General Assembly

	FY 98		FY 99 (2)	
	Salary	Differential	Salary	Differential
Senator	\$32,500		\$35,000	
Representative	\$32,500		\$35,000	
Speaker of the House	\$32,500	\$3,500	\$35,000	\$3,500
President Pro Tem of the Senate	\$32,500	\$3,500	\$35,000	\$3,500
Speaker Pro Tem of the House	\$32,500	\$2,500	\$35,000	\$2,500
Majority Floor Leader of the House	\$32,500	\$2,500	\$35,000	\$2,500
Majority Floor Leader of the Senate	\$32,500	\$2,500	\$35,000	\$2,500
Minority Floor leader of the House	\$32,500	\$2,500	\$35,000	\$2,500
Minority Floor Leader of the Senate	\$32,500	\$2,500	\$35,000	\$2,500
Chair, House Budget Committee	\$32,500	\$2,500	\$35,000	\$2,500
Chair, Senate Appropriation Committee	\$32,500	\$2,500	\$35,000	\$2,500

Per diem is to be indexed on the Federal standard (Department of Treasury - Internal Revenue Service) (3)

Mileage is to be indexed to the prevailing State of Missouri - Office of Administration rate as applied for all other state employees. (4)

1.) FY99 (July 1, 1998) should be based on FY98 base + any periodic uniform general cost-of-living increases or decreases appropriated by the general assembly and signed by the Governor + differential, not to exceed the uniform general increase or decrease provided for all other state employees by the general assembly.

2.) FY99 (July 1, 1998) should be based on FY99 base + any periodic uniform general cost-of-living increases or decreases appropriated by the general assembly and signed by the Governor + differential, not to exceed the uniform general increase or decrease provided for all other state employees by the general assembly.

3.) The city of comparison for per diem is Jefferson City, Missouri.

4.) Standard rates are published in employee handbooks annually.

Elected Officials

	FY 98		FY99 (5)
	Base		
Governor	104,245.92		
Lt. Governor	66,780.00		
Secretary of State	83,621.04		
Attorney General	90,496.32		
State Treasurer	83,621.04		
State Auditor	83,621.04		

5.) FY99 (July 1, 1998) should be based on FY98 base + any periodic uniform general cost-of-living, increases or decreases appropriated by the general assembly and signed by the Governor, not to exceed the uniform general increase or decrease provided for all other state employees by the general assembly.